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C O N F I D E N T I A L SECTION 01 OF 03 KABUL 005931

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STATE PASS TO USAID FOR AID/ANE, AID/DCHA/DG  
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E.O. 12958: DECL: 12/20/2016

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SUBJECT: GOA BITES BACK AGAINST HRW CALL FOR PROSECUTION OF  
PROMINENT HUMAN RIGHTS ABUSERS

REF: KABUL 5825

Classified By: Charge D'Affaires Richard Norland for Reasons 1.4 (b) and (d)

¶1. (U) President Karzai wasted no time in rebutting a December 12 statement from Human Rights Watch (HRW) calling for the immediate enforcement of the 2005 Action Plan on Truth, Justice and Reconciliation. The HRW statement named several prominent GOA officials as having committed gross human rights abuses during the Mujaheddin period and called for a special court to try such cases. Karzai was quick to defend these GOA officials, stating they were now playing a positive role in bringing peace to Afghanistan. Ripples are also being felt outside of Kabul, where GOA officials in the Panjshir Valley speculate the HRW statement may be linked to a recent assassination attempt on someone who assisted with the HRW investigation. Even HRW's would-be allies -- Afghan human rights activists -- are criticizing the HRW statement, saying HRW did not consult with any of them before releasing the statement. Some believe the HRW may, in fact, have hurt the transitional justice campaign in Afghanistan. End summary.

¶2. (U) In response to President Karzai's December 10 launch of the Action Plan for Truth, Justice and Reconciliation (reftel), Human Rights Watch released a statement on December 12 calling for the GOA to implement the plan immediately. (Note: This Action Plan was adopted by the GOA in late 2005 but no further progress had been made since then, prompting the Afghan Independent Human Rights Commission, AIHRC, to have Karzai & launch the plan again on December 10 and reenergize efforts around transitional justice. End Note.) In its statement, HRW says implementation of the Action Plan was delayed & because Kabul and its international backers feared that calling for justice would further weaken Afghanistan's precarious situation.8

¶3. (U) In what many believe to be an unwise move, HRW went a step further by singling out several prominent GOA officials as perpetrators of human rights abuses who should be tried in a special court. & Several of the worst perpetrators from Afghanistan's recent past are still active and engaging in widespread human rights abuses,8 HRW stated. Among those

GOA officials named were parliamentarians Abdul Rabb al Rasul Sayyaf, Mohammed Qasim Fahim and Burhadnuddin Rabbani, Minister of Energy Ismail Khan, Army Chief of Staff Abdul Rashid Dostum, and current Vice President Karim Khalili. HRW also criticized the international community and named the U.S. in particular for its alleged role in impeding transitional justice in Afghanistan: "For the past five years, the Afghan government, the United Nations and the international community, led by the United States, have pursued a counter-productive policy of relying on war criminals, human rights abusers, and drug-traffickers instead of prosecuting them...Karzi mistakenly tried to bring all forces under his umbrella, while the U.S. worked with many such individuals as part of its war on terror,.8

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KARZAI,S REBUTTAL  
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¶4. (U) Just four days later, Karzai,s office put out a statement refuting the HRW claims and showing solidarity with the GOA officials accused. The text of the statement released by Karzai,s office follows: "H.E. Hamid Karzai, President of the Islamic Republic of Afghanistan, considered the report published by Human Rights Watch on Tuesday incorrect and expressed his regret at its release. The report accuses some Jihadi leaders to have committed crimes against humanity. The Islamic Republic of Afghanistan states that a number of Jihadi leaders have played a positive role in ensuring peace, system-building and strengthening our national institutions in the past five years. The Government of Afghanistan, as a democratically elected body, believes in the principles of democracy, and abides by international

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human rights standards. The Afghan Government has taken significant steps to ensure the implementation of human rights and justice in the light of people,s wishes and realities. The launch of the Action Plan of the Islamic Republic of Afghanistan on Peace, Justice and Reconciliation last week is a good example of the Government,s decisive action on this matter. Untrue reports published by international organizations will not be beneficial to peace, stability and the strengthening of the Afghan Government. The Government of Afghanistan believes that the Afghan people need peace and stability more than ever before. The Afghan Government wants Human Rights Watch to prepare its report on Afghanistan based on realities and realistic assessments.8

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HRW STATEMENT SENDS RIPPLES AROUND KABUL ...  
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¶5. (C) Many Afghan human rights and civil society activists have expressed their dismay at the HRW statement. Nader Nadery, who heads the AIHRC,s efforts on transitional justice, noted that HRW usually sends their press releases to the AIHRC for comment before they are published, but this time did not consult with any Afghan civil society groups. He said the tone and timing of the statement were not appreciated at all and had created quite a backlash against the AIHRC. According to Nadery, many of the GOA officials named by the HRW statement blame the AIHRC for masterminding the transitional justice campaign and the movement to have them removed from power. While accountability mechanisms for past human rights violators are just one of five steps mentioned in the Action Plan (other steps include the creation of national memorials and a National Day of Remembrance, vetting the civil service to keep out serious human rights abusers, documenting past atrocities to establish accountability, and promotion of public debate and awareness), Nadery lamented that there is now talk within Karzai,s cabinet of rejecting the Action Plan all together.

¶6. (C) At a December 16 tea hosted for Western Ambassadors, Tom Koenigs, UNAMA,s Special Representative to the Secretary

General, stated his belief that Karzai,s rebuttal of the HRW statement was not an indication of waning support for the overall campaign for transitional justice. Koenigs was confident that Karzai remained fully supportive of implementing the Action Plan in Afghanistan but noted that Karzai did not want to get involved in the business of naming and shaming his political allies.

¶17. (SBU) Rina Amiri of the Open Society Institute in Kabul also criticized HRW,s statement, categorizing it as "helpful" to the transitional justice campaign. Amiri stated that while Afghans do eagerly want to see human rights violators brought to justice, they understand the politics behind the complicated process of holding accountable those former warlords who still wield significant influence. "Timing is everything," said Amiri, "and right now the conditions in the country are not ripe." Amiri maintained that HRW was pushing the issue too hard, too soon.

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...AND EVEN THE PANJSHIR VALLEY?  
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¶18. (C) The HRW press release may have even caused ripples in Panjshir Province. In a December 20 meeting with the Panjshir PRT officer, Governor Haji Bahlool posited a connection between the HRW statement and a recent security incident. On December 19, a small explosive device was discovered attached to the car of the provincial director of the Department for Women,s Affairs. Security authorities were able to remove it before detonation. Governor Bahlool speculated that the provincial director may have been targeted because she had cooperated with the HRW investigation on gross human rights abuses in Afghanistan, which focused on several prominent Panjshiris, including Fahim Khan. The PRT cannot confirm the Governor,s

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speculation, and the security investigation is ongoing.

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COMMENT  
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¶19. (C) While the full extent to which the HRW statement will hurt the overall campaign for transitional justice remains to be seen, Karzai has made it very clear that he will not support efforts to name, shame, and prosecute influential members of the current government at this time. Karzai knows that in the fragile security environment generated by the growing Taliban insurgency, he cannot afford to create more enemies, especially not among those who have large bases of armed support in areas outside Kabul. He needs the very same warlords named by Human Rights Watch to be on his side, or at least not be actively against him.

¶10. (C) While Karzai may still be in favor of the other elements of the Action Plan, many of those implicated by its call for accountability are not. Paranoid (perhaps not without reason) that the ultimate goal of the Action Plan is their political demise rather than justice, they may likely try to manipulate the current momentum against HRW to call into question the entire Action Plan. The call for mechanisms to hold past abusers accountable is indeed the most complicated and politically sensitive issue in the five-part Action Plan. As the Afghan human rights community understands well, implementation of the Action Plan will require shrewd negotiations, and starting these negotiations with the most controversial issue first may not be a successful strategy.

NORLAND